

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRANDON KASINATH,	§	
	§	No. 541, 2016
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
v.	§	
	§	Cr. ID No. 1503014277
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 20, 2017

Decided: April 26, 2017

Before **STRINE**, Chief Justice; **VAUGHN**, and **SEITZ**, Justices.

**ORDER**

This 26<sup>th</sup> day of April 2017, having considered the no-merit brief and motion to withdraw filed by the appellant’s counsel under Supreme Court Rule 26(c), the State’s response, and the Superior Court record, it appears to the Court that:

(1) In July 2015, the appellant, Brandon Kasinath, was indicted on charges of Attempted Murder First Degree, Assault First Degree, Robbery First Degree, Aggravated Menacing, twelve counts of Possession of a Firearm During the Commission of a Felony, Conspiracy First Degree, Conspiracy Second Degree, and Criminal Mischief. On January 25, 2016, Kasinath pled guilty to Robbery First Degree and Conspiracy Second Degree. In exchange for Kasinath’s plea to Robbery First Degree and Conspiracy Second Degree, the State agreed to enter a

*nolle prosequi* on the other counts in the indictment. The Superior Court accepted the guilty plea and ordered a presentence investigation.

(2) On October 7, 2016, the Superior Court sentenced Kasinath as follows: For Robbery First Degree—twelve years of Level V incarceration suspended after six years for six months of Level IV and eighteen months of Level III. For Conspiracy Second Degree—two years of Level V incarceration suspended for one year of Level III concurrent. This is Kasinath’s direct appeal.

(3) On appeal, Kasinath’s defense counsel (“Counsel”) has filed a no-merit brief and a motion to withdraw under Supreme Court Rule 26(c). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues.

(4) Counsel informed Kasinath of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief and appendix in draft form. Counsel also informed Kasinath of his right to identify any points he wanted this Court to consider on appeal. Kasinath has not raised any issues for the Court’s consideration. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court’s judgment.

(5) When reviewing a motion to withdraw and an accompanying brief under Rule 26(c), the Court must be satisfied that the appellant’s counsel has made

a conscientious examination of the record and the law for arguable claims.<sup>1</sup> Also, the Court must conduct its own review of the record and determine “whether the appeal is indeed so frivolous that it may be decided without an adversary presentation.”<sup>2</sup>

(6) Having conducted “a full examination of all the proceedings” and having found “no nonfrivolous issue for appeal,”<sup>3</sup> the Court concludes that Kasinath’s appeal “is wholly without merit.”<sup>4</sup> The Court is satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that Kasinath could not raise a meritorious claim on appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Collins J. Seitz, Jr.  
Justice

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<sup>1</sup> *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

<sup>2</sup> *Penson v. Ohio*, 488 U.S. at 81.

<sup>3</sup> *Id.* at 80.

<sup>4</sup> Del. Supr. Ct. R. 26(c).